

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WILLIAM McADAMS,

2:14-CV-120 JCM (GWF)

Plaintiff(s),

V.

INTERNATIONAL PAINTERS AND
ALLIED TRADES INDUSTRY
PENSION PLAN, et al.,

Defendant(s).

ORDER

Presently before the court are *pro se* plaintiff William McAdams' motion for entry of clerk's default, (doc. # 6), and motion for default judgment, (doc. # 7).

19 In these motions, plaintiff claims that defendant International Painters and Allied Trades
20 Industry Pension Plan was properly served on January 23, 2014, and has failed to plead or otherwise
21 defend in this action. Therefore, plaintiff requests that the court grant default judgment in his favor.

22 Obtaining a default judgment is a two-step process governed by the Federal Rules of Civil
23 Procedure. *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986). First, “[w]hen a party against
24 whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that
25 failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P.
26 55(a). Second, after the clerk enters default, a party must seek entry of default judgment under Rule
27 55(b).

1 While plaintiff is correct that defendant has not made any filings in this case, plaintiff has
2 failed to show that defendant has been properly served in this matter. The clerk cannot enter default
3 unless plaintiff demonstrates, through an affidavit, that defendant was properly served and that
4 default is otherwise warranted. Because plaintiff has failed to file such an affidavit, the court is not
5 convinced that proper service has occurred. Therefore, the clerk cannot enter default at this time.

6 The court will not issue a default judgment in this matter until the clerk has entered default.
7 Thus, plaintiff's motions will be denied.

8 || Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that *pro se* plaintiff William
10 McAdams' motions for entry of clerk's default, (doc. # 6), and for default judgment, (doc. # 7), be,
11 and the same hereby are, DENIED.

12 DATED May 22, 2014.

James C. Mahan
UNITED STATES DISTRICT JUDGE